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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,629	03/16/2004	Arthur G. House	117353	9697
25944	7590	06/06/2006	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,629	Applicant(s) HOUSE, ARTHUR G.	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/16/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations in (1) claim 7 of at least a portion of the shelf being glass, (2) claims 16 and 20 of a refrigerator, (3) claim 18 of a freezer must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6-9, 12-13, and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,524,981 to Herrmann et al.

Herrmann et al discloses a refrigerator/freezer/cabinet comprising all the elements recited in the above listed claims including, such as shown in Figs 1-3, a multi-part shelf comprising a glass upper portion having an opening 90, a plastic solid lower portion 56, at least one support supporting the solid lower portion 56 allowing easy removal of the lower portion without movement of the upper portion; wherein the at least one support comprises at least one substantially L-shaped support on each of two sides of the multi-part shelf, with at least one rail and groove support, such as shown in Fig 2.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5, 8-9, 12, 16-21 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2005/0082956 to Leistner et al.

Leistner et al discloses a refrigerator/freezer/cabinet comprising all the elements recited in the above listed claims including, such as shown in Figs 1-6, a multi-part shelf comprising a wire mesh upper portion 16 having an opening, a plastic solid lower portion 22, at least one support supporting the solid lower portion 22 allowing easy removal of the lower portion without movement of the upper portion; wherein the at least one support comprises at least one substantially L-shaped support on each of two sides of the multi-part shelf.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann et al.

Herrmann et al discloses all the elements as discussed above except for clearly stated that at least a portion of the multi-part shelf being nylon or vinyl. However, nylon and vinyl are well known and commercially available products, plus, it is well known in the art to have a shelf being made out of various well known and commercially available products; therefore, it would have been obvious and well within the level of one skill in the art to modify the structure of Herrmann et al by having at least a portion of the multi-part shelf being nylon or vinyl depending on one's desired.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann et al in view of US 2005/0156494 to Bergmann et al.

Herrmann et al discloses all the elements as discussed above except for the at least one support comprising at least one wheel in a track on each of two sides of the multi-part shelf.

Bergmann et al teaches that it is well known in the art to provide the at least one support of a refrigerator shelf with at least one wheel in a track on each of two sides of the multi-part shelf for the purpose of facilitate movement of the refrigerator drawer. Therefore, it would have been obvious to modify the structure of Herrmann et al by providing the at least one support of a refrigerator shelf with at least one wheel in a track on each of two sides of the multi-part shelf for the purpose of facilitate movement of the solid lower portion, as taught by Bergmann et al, since both teach alternate conventional refrigerator multi-part shelf structure, used for the same intended purpose, thereby providing structure as claimed.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann et al in view of USP 5,226,707 to Han et al.

Herrmann et al discloses all the elements as discussed above except for the at least one support comprising at least one guide located below the lower portion.

Han et al teaches that it is well known in the art to provide the at least one support of a refrigerator shelf with an alternate support by having at least one support comprising at least one guide located below the lower portion for the purpose of facilitate movement of the refrigerator drawer. Therefore, it would have been obvious to modify the structure of Herrmann et al by providing the at least one support of a refrigerator shelf with at least one guide located below the lower portion of the multi-part shelf for the purpose of facilitate movement of the refrigerator drawer, as taught by Han et al, since both teach alternate conventional refrigerator multi-part shelf structure, used for the same intended purpose, thereby providing structure as claimed.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remmers, Kronenberger et al, Sundberg, Fry, Alig, Parsons, Reedy et al, Hurt, Reedy, and Bouabdellati all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT
May 29, 2006



Hanh V. Tran
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